

### **REMARKS**

Applicant requests withdrawal of the final rejection and reconsideration of the Application in view of the above amendments and remarks. The amendments should be entered since they do not require additional search, but rather draw out a distinction argued in Applicant's earlier response concerning the retail display of neckties and expressly claim features previously implicitly recited in claim language already considered by the Examiner.

#### **I. Status of the Claims**

Claims 4, 7, 12 and 13 were canceled in an earlier amendment and claim 14 is canceled by this amendment.

Claims 1 and 10 have been amended to make express the hidden positioning of the elastic member used in the claimed retail display package. The amendments do not add new matter.

Claims 1-3, 5-6 and 8-11 are currently pending and claims 2, 3, 5 and 11 have been amended to overcome a §112, second paragraph rejection.

#### **II. Telephone Interview**

Applicant's attorneys would like to thank the Examiner for all the courtesies extended during the telephone interview held on January 23, 2007 during which James Tuozzo discussed the cited prior art and Applicant's position with respect to the teachings therein.

**III. Claim Rejections under 35 U.S.C. § 112**

Claims 1-3, 5-6 and 8-11 stand rejected under 35 U.S.C. § 112, second paragraph.

Applicants have amended claims 1-3, 5 and 10-11 to provide proper antecedent basis for “the member” as suggested by the Examiner and respectfully request withdrawal of the above rejection.

**IV. Claim Rejections under 35 U.S.C. § 102(b) and § 103(a)**

Claims 1, 2, 5, 10 and 11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,662,039 to Heynen. Claim 3 stands rejected under 35 U.S.C. § 103(a) as being obvious over Heynen in view of Lobner (U.S. Patent 1,677,146), in view of either Bracken (2,129,905) or Fleisch (386,807). Claim 6 stands rejected under 35 U.S.C. § 103(a) as being obvious over Heynen in view of Lobner. Claims 8-9 stand rejected under 35 U.S.C. § 103(a) as being obvious over Heynen in view of Sanchez (5,197,661) or Hallan (5,383,595). Claims 1-3, 5-6, and 10-11 stand rejected under 35 U.S.C. § 103(a) as being obvious over Fleisch or Lobner in view of Gordon (766,242).

Applicant addresses the above rejections together. Applicant has amended independent claim 1 to positively recite that the necktie “conceals the elastic member when retained in the bottom portion of the box.” Claim 10 has been amended to positively recite that “the necktie in the rolled position concealing the elastic member while the decorative necktie is displayed within the bottom portion of the box.” The Examiner states in the Office Action (page 2, paragraph 3) that “in the very least, the elastic member is hidden when the top is closed.” Applicant agrees, but submits that the present invention is directed to a packaging arrangement that not only retains neckties, but also attractively displays them, as is evident in the figures as well as the preamble of the claims

reciting an improved packaging arrangement “for retaining and displaying a decorative necktie.”

The amendments are simply to make express that the necktie itself conceals the elastic member from view while the decorative necktie is displayed within the box. This is the case when the box is in an open position and therefore distinguishes structurally over the cited references. This is also evident in the figures, several of which show the tie after it has been retained by a concealed elastic member. This arrangement advantageously retains the necktie in the display box while hiding the elastic retaining member so that the necktie can be more attractively presented to prospective purchasers yet is retained to prevent separation, soiling, theft, etc.

Prior art necktie packaging arrangements were not concerned with concealing retaining members from view to best display the necktie with the container uncovered. This feature was considered by the Examiner in response to the recitations in claim 10 calling for “a hidden continuous elastic member,” however in consideration of the present rejection Applicant has further amended the claims to make this feature express as it was not apparent to Applicant that the hidden nature of the elastic member was not positively recited as being due to the retained necktie. Heynen, Fleisch, Bracken, Lobner, Gordon, Hallam, Sanchez, Kulka and Ikemoto are not concerned with this issue and, indeed, provide no such teaching or suggestion.

In view of the above amendments, Applicant submits that the case is in condition for allowance and respectfully requests that the pending claims be allowed and the case passed to issue.

